(12)

No. 03-287

In The Supreme Court Of The United States

REGINALD WILKINSON, Director, et al.,
Petitioners,

v.

WILLIAM DWIGHT DOTSON, et al.,
Respondents.

ON WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

JOINT APPENDIX

JOHN Q. LEWIS
Jones, Day, Reavis & Pogue
901 Lakeside Avenue
Cleveland, Ohio 44114
216-586-3939

Counsel for Respondent
Rogerico Johnson

ALAN UNTEREINER
Robbins, Russell, Englert,
Orseck & Untereiner LLP
1801 K Street NW, Suite 411
Washington, DC 20006
202-775-4505
202-775-4510 fax

Counsel for Respondent
William Dwight Dotson

JIM PETRO
Attorney General of Ohio
DOUGLAS R. COLE*
State Solicitor
**Counsel of Record*
STEPHEN P. CARNEY
Senior Deputy Solicitor
TODD R. MARTI
Assistant Attorney General
30 East Broad Street, 17th Floor
Columbus, Ohio 43215
614-466-8980
614-466-5087 fax

Counsel for Petitioners

RECEIVED
SEP 28 2004
OFFICE OF THE CLERK
SUPREME COURT, U.S.

PETITION FOR WRIT OF CERTIORARI FILED: AUGUST 18, 2003
CERTIORARI GRANTED: MARCH 22, 2004

BEST AVAILABLE COPY

TABLE OF CONTENTS

Page

Selected Docket Entries,
Dotson v. Wilkinson et al.,
(United States District Court for the Northern District
of Ohio (Toledo)) 1

Selected Docket Entries,
Dotson v. Wilkinson,
(U. S. Court of Appeals for the Sixth Circuit)..... 4

Selected Docket Entries,
Johnson v. Ghee,
(United States District Court for the Northern District
of Ohio (Youngstown)) 6

Selected Docket Entries,
Johnson v. Ghee,
(U. S. Court of Appeals for the Sixth Circuit)..... 8

Dotson v. Wilkinson, 1983 Civil Complaint,
(U. S. District Court for the Northern District of Ohio)..... 10

Dotson v. Wilkinson, Motion to Amend Page (6)
Due to Copying Mistake,
(U. S. District Court for the Northern District of Ohio)..... 39

Johnson v. Ghee, Civil Complaint 42 U.S.C. 1983,
(U. S. District Court for the Northern District of Ohio)..... 42

Johnson v. Ghee, Motion for Class Certification,
(U. S. District Court for the Northern District of Ohio)..... 54

Items Reproduced in Appendix to Petition for Certiorari

Item	Petition Appendix Page
Dotson v. Wilkinson, 329 F.3d 463 (6th Cir. 2003), *En Banc* Decision	4a
Dotson v. Wilkinson, 300 F.3d 661 (6th Cir. 2002), Panel Decision	36a
Dotson v. Wilkinson, District Court Decision	47a
Dotson v. Wilkinson, District Court Judgment	51a
Johnson v. Ghee, District Court Decision	52a
Johnson v. Ghee, District Court Judgment	56a

[The following reproduction includes only selected docket entries.]

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO (TOLEDO)
CIVIL DOCKET FOR CASE #: 3:00-CV-07303-DAK

Dotson v. Wilkinson et al.

DOCKET ENTRIES

Filing Date	#	Docket Text
05/12/2000	1	Complaint *with Jury Demand* (no summons and Magistrate Consent forms issued) against Margarette T. Ghee, John Kinkela, Reginald Wilkinson. Filed by pro se William Dwight Dotson.
07/24/2000	6	Motion to amend complaint *page 6 due to copying mistake* filed by pro se William Dwight Dotson.
08/07/2000	7	Opinion and Order: This action is dismissed pursuant to 28 USC 1915(e); further the court certifies pursuant to 28 USC 1915(a)(3) that an appeal from this decision could not be taken in good faith. Judge David A. Katz.
08/07/2000	8	Judgment Entry: Ordered that this action is dismissed pursuant to 28 USC 1915(e); further the court

		certifies pursuant to 28 USC 1915(a)(3) that an appeal from this decision could not be taken in good faith. Dismissing case. Judge David A. Katz
08/17/2000	9	Notice of Appeal *(FILING FEE NOT PAID)* filed by pro se William Dwight Dotson.
08/14/2002	14	Information copy of order from the USCA for the Sixth Circuit reversing the district court's judgment and remanding the case for further proceedings. the district court erred in holding that Dotson's challenge to his parole eligibility was not cognizable under 42 USC 1983.
09/06/2002	15	True copy of mandate from the USCA for the Sixth Circuit reversing and remanding the decision of the District Court. Mandate issued 9/4/02
12/16/2002	31	Order from the USCA for the Sixth Circuit that the mandate in appeal no 00-4033 (related to docs 9, 11, 12, is recalled. The case is returned to the USCA's active docket.
05/21/2003	32	Information copy of mandate from the USCA for the Sixth Circuit reversing the judgment of the district court which dismissed plaintiff Dotson's civil rights complaint. Certain prisoner claims are cognizable under section 1983. "We (Sixth Circuit) hold that procedural challenges to parole eligibility and parol suitability

determinations such as those made by Dotson (NDOH Case No. 3:00CV7303; Appeal No. 00-4033), and Johnson (NDOH Case No. 4:00CV1075; appeal No. 00-4051) do not "necessarily imply" the invalidity of the prisoner's conviction or sentence and, therefore, may appropriately be brought as civil rights actions, under 41 U.S.C. 1983, rather than pursuant to an application for habeas corpus. To the extent that our prior opinions are in conflict with our reasoning expressed today, they are overruled. For the foregoing reasons, we REVERSE the district court as to Johnson and Dotson."

06/12/2003	34	True copy of mandate from the USCA for the Sixth Circuit reversing the decision of the district court in Appeal No. 00-4033
09/15/2003	40	Letter from the U.S. Supreme Court: Reginald Wilkinson's petition for a writ of certiorari was filed on 8/18/03 and placed on the docket 8/22/03 as U.S. Supreme Court No. 03-287

[The following reproduction includes only selected docket entries.]

GENERAL DOCKET
U. S. Court of Appeals for the Sixth Circuit

No. 00-4033

WILLIAM DWIGHT DOTSON, Plaintiff-Appellant

v.

REGINALD A. WILKINSON, Director, Defendant-Appellee

DOCKET ENTRIES

Date	Docket Text
8/12/02	OPINION filed: REVERSED and remanded, decision for publication pursuant to local rule 206. James L. Ryan, Authoring Judge, Danny J. Boggs, Circuit Judge, R. G. Cole, Circuit Judge (separate concurring opinion).
9/4/02	MANDATE issued with no cost taxed
9/18/02	Upon the determination of the court sua sponte that the appeals in cases 00-3339, 00-4033, and 00-4051 be consolidated and reheard en banc on the common issue of whether an Ohio state prisoner can use 42 U.S.C. § 1983 to seek damages or a new parole hearing on the ground that an earlier hearing was procedurally deficient; IT IS ORDERED that the cases be consolidated for that purpose, and that argument to the en banc court be held on Wednesday, December 11, 2002, at 9:00 A.M. in Cincinnati, Ohio. Boyce F. Martin, Chief Circuit judge; Danny J. Boggs, Alice M. Batchelder, Karen N. Moore, R. G. Cole, Eric L. Clay, Ronald L. Gilman, Julia S. Gibbons, Circuit Judges.
5/19/03	OPINION filed: REVERSED, decision for publication pursuant to local rule 206. Boyce F. Martin, Authoring Judge, Danny J. Boggs, Circuit Judge, Alice M Batchelder, Circuit Judge, Martha C. Daughtrey, Circuit Judge, Karen N. Moore, Circuit Judge, R. G. Cole, Circuit Judge, Eric L. Clay, Circuit Judge, Ronald L. Gilman, Circuit Judge, Julia S. Gibbons, Circuit Judge, John M. Rogers, Circuit Judge. (Judge Gilman delivered a separate opinion concurring in part and dessenting in part, in which Judge Batchelder, Judge Gibbons, and Judge Rogers joined.)
5/19/03	JUDGMENT: REVERSED.
6/10/03	MANDATE ISSUED with no cost taxed [00-4033]. Entered by order of the court.
8/25/03	U. S. Supreme Court notice filed regarding petition for writ of certiorari filed by Appellee Reginald A. Wilkinson. Filed in the Supreme Court on 08-18-03, Supreme Ct. case number: 03-287.
4/5/04	U. S. Supreme Court letter filed granting petition for writ of certiorari filed by Reginald A. Wilkinson Supreme Court No. 03-287. Filed in the Supreme Court on 03-22-04.

[The following reproduction includes
only selected docket entries.]

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO (YOUNGSTOWN)
CIVIL DOCKET FOR CASE #: 4:00-cv-01075-PCE

Johnson v. Ghee

DOCKET ENTRIES

Filing Date	#	Docket Text
04/26/2000	2	COMPLAINT
04/26/2000	4	MOTION by pla for class certification
07/18/2000	6	MEMORANDUM, OPINION, AND ORDER: Pla filed his action under 42 USC 1983 against Ohio Parole Authority; pla is currently incarcerated in the Ohio State Penitentiary having been denied parole; FURTHER, a prisoner may not raise claims under 42 USC 1983 if a judgment on the merits of those claims would affect the validity of his conviction or sentence unless the conviction or sentence has been set aside; FURTHER, this action is dismissed under 28 USC 1915(e); the ct certifies pursuant to 28 USC

		19159a)(3) that an appeal from this decision could not be taken in good faith.
07/18/2000	7	Judgment: dismissing case pursuant to 28 USC 1915(e); FURTHER, the court certifies pursuant to 28 USC 1915(a)(3) that an appeal from this decision could not be taken in good faith
08/18/2000	9	NOTICE of Appeal by pltf
05/21/2003	16	TRUE cy of order from USCA reversing decision of the District Court [Appeal [9-1] Clerk: Leonard Green; Martin, Chief Judge; Boggs, Batchelder; Daughtrey; Moore; Cole; Clay; Gilman; Gibbons & Rogers, Circuit Judges. dt issd 5/19/03 Cost: -0-

[The following reproduction includes only selected docket entries.]

GENERAL DOCKET
U. S. Court of Appeals for the Sixth Circuit

No. 00-4051

ROGERICO J. JOHNSON, Plaintiff-Appellant

v.

MARGARETTE T. GHEE, Defendant-Appellee

DOCKET ENTRIES

Date	Docket Text
9/18/02	Upon the determination of the court sua sponte that the appeals in cases 00-3339, 00-4033, and 00-4051 be consolidated and reheard en banc on the common issue of whether an Ohio state prisoner can use 42 U.S.C. § 1983 to seek damages or a new parole hearing on the ground that an earlier hearing was procedurally deficient; IT IS ORDERED that the cases be consolidated for that purpose, and that argument to the en banc court be held on Wednesday, December 11, 2002, at 9:00 A.M. in Cincinnati, Ohio. Boyce F. Martin, Chief Circuit Judge; Danny J. Boggs, Alice M. Batchelder, Karen N. Moore, R. G. Cole, Eric L. Clay, Ronald L. Gilman, Julia S. Gibbons, Circuit Judges.
5/19/03	OPINION filed: REVERSED, decision for publication pursuant to local rule 206. Boyce F. Martin, Authoring Judge, Danny J. Boggs, Circuit Judge, Alice M. Batchelder, Circuit Judge, Martha C. Daughtrey, Circuit Judge, Karen N. Moore, Circuit Judge, R. G. Cole, Circuit Judge, Eric L. Clay, Circuit Judge, Ronald L. Gilman, Circuit Judge, Julia S. Gibbons, Circuit Judge, John M. Rogers, Circuit Judge. (Judge Gilman delivered a separate opinion concurring in part and dissenting in part, in which Judge Batchelder, Judge Gibbons and Judge Rogers joined.)
5/19/03	JUDGMENT: REVERSED.
6/10/03	MANDATE ISSUED with no cost taxed

[Reproduced as in original including spelling, etc.]

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

WILLIAM DWIGHT DOTSON,	:	CASE NO. 3:00CV78
PLAINTIFF,	:	1983 CIVIL COMPLAINT
-VS-	:	JUDGE:
REGINALD WILKERSON, DIRECTOR OF DEPARTMENT OF REHAB. & CORRECTION; JOHN KINKELA, CHIEF OF OHIO ADULT PAROLE AUTHORITY; AND MARGARETTE T. GHEE, CHAIRPERSON OF THE OHIO PAROLE BOARD.	:	

* * * * * * * * * * *

Preliminary Statement:

This is a Civil Rights Action brought pursuant to 42 U.S.C. § 1983, asking for prospective Declaratory And Injunctive Relief against state officials of the Department of Rehabilitation And Correction, against state action taken under the color of state law, claiming that the application of Ohio's Revised 1998, Parole Board Guidelines, that were adopted in accordance with Administration Regulation 5120-1-1-10, effective date: March 16, 1998, have the force and effect of law for purposes of an Ex Post Facto violation where the guidelines are applied retrospectively, alters or delays a statutory parole eligibility, increases the quantum of

punishment, and substantially disadvantages the Plaintiff's parole eligibility, in violation of the Due Process Clause of the Fourteenth Amendment, and further in violation of the Ex Post Facto Clause of Article 1 Section 10 of the United States Constitution.

Parties:

1. The Plaintiff, William Dwight Dotson, hereinafter is referred to as Plaintiff, is an inmate at North Central Correctional Institution, P. O. Box 1812, located in Marion, Ohio 43301-1812.

2. Defendant, Reginald Wilkerson, is the Director of the Department of Rehabilitation And Correction, and has been delegated the authority by the Ohio Legislature under O.R.C. § 5120.01 to control all of the various divisions of the department and the duties conferred on the various divisions by law or by order of the director. He is being sued in his official capacity.

3. Defendant, John Kinkela, is the Chief of the Adult Parole Authority, which consist of the chief, a parole supervision section, and a parole board. He was appointed by the director pursuant to O.R.C. § 5149.02, to serve at the pleasure of the director, and to operate under rules adopted by the director as a regular Administrative Unit of the Department. The Legislature specified under O.R.C. § 5149.03, that the duties of the Parole Authority shall be to administer the

provisions of Chapter 2967 et. seq., of the Ohio Revised Code. He is being sued in his official capacity.

4. Margarette T. Ghee, is chairperson of the Ohio Parole Board, and appointed by the director pursuant to his authority under O.R.C. § 5149.02, and shall operate under rules adopted by the director, and administer the provisions of Chapter 2967 et. seq., of the Ohio Revised Code, in accordance with the mandate imposed upon the Parole Authority under O.R.C. § 5149.03. She is being sued in her official capacity.

Facts:

1. The Plaintiff, William Dwight Dotson, was indicted by a Lucas County Grand Jury in case no. CR-81-5324 on the charge of Aggravated Murder, and Aggravated Murder while in the commission of a felony in February of 1981.

2. Following a jury trial on said indictment, the Plaintiff was found guilty of one count of Aggravated Murder and sentenced to serve term of life in prison on July 22, 1981.

3. In accordance with O.R.C. § 2967.13(B) (Former law) the Plaintiff became eligible for parole after serving Fifteen Years, which sentence was imposed for an offense committed prior to October 19, 1981.

4. Administrative Regulation 5120-1-1-07 (A)(2)(3)&(4), effective date: October 15, 1975, governed the procedures to be followed by the parole board when making a

determination to grant or defer release. The regulation, at subsection (A), creates the presumption that an inmate will be released on parole on or about the date of his eligibility, where the regulation mandates that, "unless the parole board, acting pursuant to A.R. 5120-1-1-10, determines that he should not be released on such date for one of the following reasons:

(1) There is substantial reason to believe that the inmate will engage in future criminal conduct, or that the inmate will not conform to such conditions of release as may be established Admin. Regulation 5120-1-1-12.

(2) There is substantial reasons to believe that due to the serious nature of the crime, the release of the inmate into society would create undue risk to public safety, or that due to the serious nature of the crime, the release of the inmate would not further the interest of justice nor be consistent with the welfare and security of society.

(3) There is substantial reasons to believe that due to serious infractions of Administrative Regulations, the release of the inmate would not act as a deterent to the inmate or the other institutionalized inmates from violating institutional rules and regulations.

(4) There is need for additional information upon which to make a release decision." See Exhibit (A) attached hereto.

5. Administrative Regulation 5120-1-1-10 (A)(B), effective date: January 2, 1979, 'Time Of Initial Parole Board Hearing' controls the amount of time that the board may defer any continuance to a second hearing. The regulation states in subsection (B) that, "In any case in which release in denied at the inmate's initial hearing, a second hearing shall be held as determined by the parole board." "In no event shall the hearing be scheduled later than five (5) years beyond the minimum eligibility date for release consideration, unless for good cause shown. If release is denied at such second hearing, the inmate shall be eligible for annual hearings thereafter. See Exhibit (B) hereto attached.

6. On March 1, 1998, the Ohio Parole Board adopted revised parole board guidelines in the form of two-dimensional chart or grid. On the vertical axis there are 13 categories of offense seriousness. The most serious offenses are assigned to category 13, and the least serious offenses are assigned to category 1. On the horizontal axis there are four (4) risk or recidivism categories called the criminal history/risk score. At each intersection of the seriousness and risk recidivism categories there is a guideline range in months to be served before being eligible for parole release, with a mandatory minimum to a discretionary maximum amount of months to be served at each intersection. See Exhibit (D) hereto attached.

7. On March 16, 1998, Director Wilkerson adopted a revised version of A.R. 5120-1-1-10 (emergency) as authorized under O.R.C.

§ 5120.01, and promulgated pursuant to O.R.C. § 111.15. The revised version of the regulation authorizes the parole board, under sections (B)(2), to set the time for subsequent hearings, following the initial hearing, for up to ten (10) years. See Exhibit (C) hereto attached.

8. Chairperson Margarette T. Ghee, states in the Preface to the revised guidelines at paragraph (1) that, "The purpose of the revised guidelines is to assist the parole board in making consistent, fair, and equitable decisions in determining the amount of time an offender must serve before being released. See Exhibit (E) hereto attached.

9. Administrative Regulation 5120-2-10, effective date: May 1, 1988, 'Life Sentences', reads at paragraph (F)(1), that a prisoner serving a sentence of imprisonment for life for an offense of first degree or aggravated murder committed prior to October 10, 1981, becomes eligible for parole consideration after serving fifteen full years. See Exhibit (F) hereto attached.

10. The revised parole board guidelines now calls for any offender convicted of first degree or aggravated murder, at any point in time to serve a must minimum 300 months (25 yrs.), 330 months (27 ½ yrs.), 360 months (30 yrs.), and 390 months (32 ½ yrs.) to the remainder of a persons natural life depending upon where the offender falls in the offense category and criminal history/risk score. In fact, a person serving a life sentence is never eligible for parole release consideration

according to Margarette T. Ghee, where she states at paragraph (4) of the Preface:

> "Life sentences will not be given a projected release date. In those cases the board will hold an open hearing if (emphasis added) the inmate is considered for release. See Exhibit (E) hereto attached.

11. After serving fifteen full years, twelve (12) Months jail time accredited, Plaintiff became eligible for parole and made his initial appearance before the Ohio Parole Board in April of 1995.

12. The Ohio Parole Board pursuant to its authority under A.R. 5120-1-1-07(A)(2), effective date: 10/15/75, found that because of the serious nature of the crime that a second hearing would be deferred or continued for an additional ten (10) years; Thereby, setting his next hearing date for June of 2005.

13. The parole board, complying with A.R. 5120-1-1-10(C), effective date, 1/2/79, held a review hearing in accordance with A.R. 5120-1-1-20, half of the Plaintiff's ten (10) year

continuance to determine if Plaintiff could now be considered eligible for release. The review hearing was held on March 10, 2000.

14. The review panel utilizing the parole boards "Revised Guidelines' of March 1, 1998, denied the Plaintiff any review eligibility. Stating that, "Inmates continuance date remains short of the guideline range." See Exhibit (G) hereto attached.

15. The review panel placed Plaintiff in category 13 with a risk score of 8, which calls for a mandatory must serve minimum of 390 months (32 ½ yrs.) before Plaintiff is eligible for parole consideration of any release. See Exhibit (G) at section A.

16. The review panel set Plaintiff's next hearing date for June of 2005, the original date of his initial ten (10) year continuance, and emphasized that Plaintiff would still remain short of his guideline range by at least 7 ½ years. See, Exhibit (G) at section D.

Claims For Relief:

1. The revised parole guidelines, effective March 1, 1998, and adopted by the director under AR 5120-1-1-10 (emergency), effective March 16, 1998, are being applied retrospectively to the plaintiff who committed his crimes in February 1981, and because the revised guidelines alter the legal consequences of his crimes by requiring a must serve minimum of 390 months (32 ½ yrs), before and if he will be considered eligible for parole, where the legal consequences for his acts called for a statutory maximum of fifteen

(15) full years before becoming eligible for parole under O.R.C. § 2967.13(B), for persons sentenced to life in prison for aggravated murder committed prior to October 19, 1981. The plaintiff claims that the defendant's are in violation of the Ex Post Facto clause of Article I, section 10 of the United States Constitution, and the due process clause of the Fourteenth Amendment.

2. The revised parole guidelines substantially disadvantages the plaintiff where the guidelines eliminate any opportunity for parole eligibility as mandated by O.R.C. § 2967.13(B), which states that, "A prisoner serving a sentence of imprisonment for life for the offense of first degree murder or aggravated murder, which sentence was imposed for an offense committed prior to October 19, 1981, becomes eligible for parole after serving a term of fifteen full years." Plaintiff again claims that the defendant's are in violation of the Ex Post Facto clause of Article I, section 10 of the United Stated Constitution, and the due process clause of the Fourteenth Amendment.

3. The revised parole guidelines substantially disadvantages the plaintiff because of the increase in the 'quantum of punishment' above that of the statutory mandate and the administrative rules in effect at the time plaintiff committed his crimes. The guidelines alter the 'presumptive sentencing range' by requiring a must serve minimum of 390 months (32 ½ yrs.) before becoming eligible for parole consideration, if then, in contradiction to O.R.C. § 2967.13(B) (former law), and AR 51202-10(F), which mandates

that persons serving life sentences for first degree or aggravated murder committed prior to October 19, 1981, becomes eligible for parole after serving fifteen full years. A violation of the Ex Post Facto clause of Article 1, Section 10 of the United States Constitution and the due process clause of the fourteenth amendment.

4. The revised parole guidelines work to the substantial disadvantage of the plaintiff where they alter and cancel the period between parole reconsideration hearings where the administrative rule 5120-1-1-10(A)(B), effective date: January 2, 1979, the rule governing the procedures to be followed by the parole board when plaintiff committed his crimes, mandated a second hearing no later than five (5) years from the initial hearing, with annual hearings thereafter if denied at the second hearing, and where revised A.R. 5120-1-1-10(B)(2), effective date: March 16, 1998, which adopts the revised parole guidelines by authorizing initial hearing continuances for up to ten (10) years with no chance of any second reconsideration hearing prior to the expiration of that time, violates both the due process clause of the fourteenth amendment, and article 1, section 10 of the Ex Post Facto clause of the United States Constitution.

Prospective Declaratory & Injunctive Relief:

1. That the court issue a binding statement declaring and explaining Plaintiff's due process rights under O.R.C. § 2967.13(G) (former law), and Administrative Regulations 5120-1-1-07, effective date: 10/15/75, and 5120-1-1-10, effective date: 1/2/79; Also, A.R. 5120-2-10(F), effective date: 5/1/88.

2. That the Court issue a binding statement declaring and explaining all parties legal rights, duties, powers, limitation of powers, privileges, liabilities, and disabilities under the Ex Post Facto Clause of Article I, Section 10 of the United States Constitution.

3. That the Court issue a permanent injunction ordering the Defendants to comply with the court's declarations regarding Plaintiff's due process rights under the Fourteenth Amendment, and to proceed toward a prompt and immediate parole hearing in accordance with the statutory laws and administrative rules in place when Plaintiff committed his crimes.

Signed this _____ day of _____, 2000.

I declare under penalty of perjury that the foregoing is true and correct.

Respectfully submitted,
/s/William Dwight Dotson
Inst. No. A-163-897
North Central Correctional Inst.
P. O. Box 1812
Marion, Ohio 43301-1812

5-8-2000

Exhibit A

5120:1-1-07 [1975] Procedure for release on parole, furlough, and shock parole

(A) An inmate may be released on or about the date of his eligibility for release, unless the Parole Board, acting pursuant to Administrative Regulation 5120:1-1-10, determines that he should not be released on such date for one or more of the following reasons:

(1) There is substantial reason to believe that the inmate will engage in further criminal conduct, or that the inmate will not conform to such conditions of release as may be established under Administrative Regulation 5120:1-1-12;

(2) There is substantial reason to believe that due to the serious nature of the crime, the release of the inmate into society would create undue risk to public safety, or that due to the serious nature of the crime, the release of the inmate would not further the interest of justice nor be consistent with the welfare and security of society;

(3) There is substantial reason to believe that due to serious infractions of Administrative Regulations, the release of the inmate would not act as a deterrent to the inmate or to other institutionalized inmates from violating institutional rules and regulations;

(4) There is need for additional information upon which to make a release decision.

(B) Administrative Regulation 911, filed on September 23, 1975, is hereby rescinded.

* * *

5120:1-1-08 [1981] Factors that may be considered in a release hearing

In making any determination under rule 5120:1-1-07 of the Administrative Code, the parole board may take into consideration any of the following factors:

(A) The inmate's ability and readiness to assume obligations and undertake responsibilities, as well as the inmate's own goals and needs;

(B) the inmate's family status, including whether his relatives display an interest in him or whether he has other close and constructive association in the community;

(C) the type of residence, neighborhood, or community in which the inmate plans to live;

(D) The inmate's employment history and his occupational skills;

(E) The inmate's vocational, educational, and other training;

(F) The adequacy of the inmate's plan or prospects on release;

(G) Any recommendations made by the sentencing courts;

(H) The inmate's conduct during his term of imprisonment;

(I) The inmate's behavior and attitude during any previous experience of probation, furlough, parole, or other administrative release and the recency of such experience;

(J) The availability of community resources to assist the inmate;

(K) The nature of the offense for which the inmate was convicted;

(L) The inmate's pattern of criminal or delinquent behavior prior to the current term of imprisonment;

(M) The physical and mental health of the inmate as they reflect upon the inmate's ability to perform his plan of release;

(N) The presence of outstanding detainers against the inmate;

(O) Any recommendations made by the staff of the department of rehabilitation and correction or any of its agencies;

(P) Any other factors which the board determines to be relevant, except for documents related to the filing of a grievance under rule 5120-9-31 of the Administrative Code.

* * *

5120:1-1-09 [1981] Factors that shall be considered in release hearing

In considering the factors specified in rule 5120:1-1-08 of the Administrative Code, the parole board shall consider the following:

(A) Any reports prepared by any institutional staff member relating to the inmate's personality, social history, and adjustment to institutional programs and assignments;

(B) any official report of the inmate's prior criminal record, including a report or record of earlier probation or parole;

(C) Any presentence or postsentence report;

(D) Any recommendations regarding the inmate's release made at the time of sentencing or at any time thereafter by the sentencing judge, presiding judge, prosecuting attorney, or defense counsel;

(E) Any reports of physical, mental, or psychiatric examination of the inmate;

(F) Such other relevant written information concerning the inmate as may be reasonably available, except that no document related to the filing of a grievance under rule 5120-9-31 of the Administrative Code shall be considered;

(G) Written or oral statements by the inmate, other than grievances filed under rule 5120-9-31 of the Administrative Code.

* * *

Exhibit B

5120:1-1-10 Time of initial parole board hearing

(A) The initial hearing for all inmates serving indeterminate sentences shall be held on or about the date when they first become eligible for release under the Administrative Code.

(B) In any case in which release is denied at the inmate's initial hearing, a second hearing shall be held as determined by the parole board, unless waived by the parole board, pursuant to rule 5120:1-1-11 of the Administrative Code. If a continuance of twelve months or less is ordered, the parole board shall consider granting a furlough as provided by rule 5120:1-1-23 of the Administrative Code for the period of such continuance. The minutes of the hearing shall reflect that both parole and furlough were considered by the parole board. The reasons for such extended time shall be communicated in writing to the inmate and to the managing officer. In no event shall the second hearing be scheduled later than five years beyond the minimum eligibility date for release consideration, *unless for good cause shown*. If release is denied at such second hearing, the inmate shall be eligible for annual hearings thereafter.

(C) Inmates denied release shall have their status reviewed in accordance with rule 5120:1-1-20 of the Administrative Code.

(emphasis added)

* * *

Exhibit C

DEPARTMENT OF REHABILITATION AND CORRECTION

5120:1-1-10 Initial and continued parole board hearing dates; projected release dates.

(A) The initial hearing for each prisoner serving an indeterminate sentence shall be held on or about the date when the prisoner first becomes eligible for parole pursuant to rule 5120:1-1-03 of the Administrative Code.

(B) In any case in which parole is denied at a prisoner's regularly constituted parole hearing and the board does not continue the prisoner to the expiration of the maximum sentence, the parole board shall:

~~(1) Set the time for a continued hearing, which shall not be more than five years after the date of the hearing, unless the parole board determines sufficient cause has been demonstrated to set a date in excess of five years, or~~

~~(2) Set a projected release date in accordance with paragraph (F) of this rule.~~

(1) SET A PROJECTED RELEASE DATE IN ACCORDANCE WITH PARAGRAPH (D) OF THIS RULE, OR

(2) SET THE TIME FOR A SUBSEQUENT HEARING, WHICH SHALL NOT BE MORE THAN TEN YEARS AFTER THE DATE OF THE HEARING.

~~(C) In the event a continued hearing date of six months or less is established in accordance with paragraph (B)(1) of this rule, the parole board may consider granting a furlough pursuant to rule 5120:1-1-23 of the Administrative Code.~~

~~(D)~~ (C) In any case where parole is denied the reasons for such denial shall be communicated to the prisoner and the warden in writing.

~~(E) The status of prisoner denied release shall be reviewed in accordance with rule 5120:1-1-20 of the Administrative Code.~~

~~(F)~~ (D) The parole board at any parole release consideration hearing may, in its discretion, establish a projected release date ~~one year~~ TEN YEARS or less in the future which, unless rescinded pursuant to this rule, would permit the prisoner to be released without a further appearance before the parole board or a hearing panel. This date shall be subject to rescission within the discretion of the parole board and shall not create any expectation of release or entitlement to be released thereon.

~~(G)~~ (E) A projected release date shall not be established for any prisoner serving a life sentence, sentence of fifteen years to life, or a sentence imposed for any offense pursuant to Chapter 2907. of the Revised Code.

[PAGE MISSING IN ORIGINAL]

Exhibit D

PART A: PAROLE GUIDELINES CHART

To promote a more consistent exercise of discretion, and enable fairer and more equitable decision-making without removing individual case consideration, the Ohio Parole Board has developed the following parole decision guidelines.

The Parole Guidelines Chart, shown below, sets forth the applicable guideline range (in total months to be served before release, including jail time) based on the seriousness of the offender's current offense and the offender's criminal history/risk score. The applicable guideline range presumes good institutional conduct, fulfillment of any spceial conditions imposed by the Parole Board, and the development of a suitable release plan. The Parole Board may depart from the guidelines (either upward or downward) for good cause upon the provision of specific written reasons.

The applicable guideline range does not supersede any minimum or maximum sentence applicable to the offender.

PAROLE GUIDELINES CHART
(Applicable Guideline Range in Months to be Served Before Release by Offense Category and Criminal History/Risk Score)

OFFENSE CATEGORY	CRIMINAL HISTORY/ RISK SCORE [0 or 1]	[2, 3, or 4]	[5 or 6]	[7 or 8]
1	0-6	4-10	8-14	12-18
2	6-12	10-16	14-20	20-28
3	12-18	18-24	24-32	32-40
4	18-24	24-32	32-44	44-56
5	24-36	36-48	48-60	60-80
6	36-48	48-60	60-84	84-108

OFFENSE CATEGORY	CRIMINAL HISTORY/ RISK SCORE [0 or 1]	[2, 3, or 4]	[5 or 6]	[7 or 8]
7	48-60	60-84	84-108	108-132
8	60-84	84-108	108-132	132-156
9	84-120	108-144	132-168	156-192
10	120-180	150-210	180-240	210-270
11	180-240	210-270	240-300	270-330
12	240-300	270-330	300-360	330-390
13	300-life	330-life	360-life	390-life

Exhibit E

Preface

The purpose of the revised parole guidelines is to assist the Parole Board in making consistent, fair, and equitable decisions in determining the amount of time an offender must serve before being released to the community, without removing the opportunity for individual case consideration. The guidelines are based on the seriousness of the offender's offense and the offender's risk of recidivism, and provide for the consideration of the offender's institutional conduct.

The revised parole guidelines are in the form of a two-dimensional chart or grid. On the vertical axis, there are 13 categories of offense seriousness. The most serious offenses are assigned to Category 13; the least serious offenses are assigned to Category 1. On the horizontal axis, there are four risk of recidivism categories, based on an empirically developed score called the criminal history/risk score. At each intersection of the seriousness and risk of recidivism categories, there is a guideline range (in months to be served before release). Because there are 13 offense categories and four risks of recidivism categories, the grid has 52 guideline ranges. The guideline ranges are designed for the typical or average cases and presume good institutional behavior. The use of a guideline "range" rather than a "point" is to allow the Parole Board some discretion to address individual case factors without departing from the guidelines.

The guidelines will also allow the Board to inform most inmates of their projected release date the first time they see the Board. These dates may be established up to ten years from the date of the hearing, and will be contingent upon good institutional behavior as well as on the prisoner's participation in rehabilitative programming.

For those offfenders who will be required to serve more than ten years additional time the Board will schedule a 10-year reconsideration hearing. Prisoners serving time for sex offenses or life sentences will not be given a projected release date. In those cases the Board will hold an "open" hearing if the inmate is considered for release.

The revision of the Parole Board guidelines is part of an ongoing quality improvement process. The guidelines will continue to be a work in progress and the Parole Board will remain flexible in making adjustments in order to continuously make improvements.

/s/Margarette T. Ghee
Chairperson

Exhibit F

DEPARTMENT OF REHABILITATION AND CORRECTION

5120-2-10 LIFE SENTENCES.

(A) As a result of a number of amendments to the Revised Code over a period of years, the provisions for diminution of sentence and eligibility for parole, shock parole, employment/education furlough and home furlough are affected by the language in the sentencing documents (journal entries) concerning the crime and the sentence imposed as well as the date on which the crime was committed. The purpose of this rule is to explain diminution of sentence and eligibility for release for persons serving life sentences as established by the Revised Code. This rule does not expand release eligibility established by any other rule of the Administrative Code.

(B) A sentence of life imprisonment imposed pursuant to section 2929.03 of the Revised Code for the offense of aggravated murder shall be presumed to be a sentence of life imprisonment with parole eligibility after twenty years, subject to diminution under rules 5120-2-05, 5120-2-06, 5120-2-07 and 5120-2-08 of the Administrative Code, unless the journal entry of the court specifies that parole eligibility is to be after twenty full years or thirty full years.

(C) A prisoner serving a sentence of imprisonment for life with parole eligibility after serving thirty full years of imprisonment for the offense of aggravated murder with one or more of the specifications enumerated in section 2929.04 of the Revised Code.

(1) Becomes eligible for parole consideration after serving thirty full years:

(a) The thirty full years are reduced by jail-time credit pursuant to rule 5120-2-04 of the Administrative Code.

(b) The thirty full years are not diminished by time off for good behavior pursuant to rule 5120-2-05 of the Administrative Code.

(c) The thirty full years may not be reduced by days of credit earned pursuant to rules 5120-2-06, 5120-2-07, and 5120-2-08 of the Administrative Code.

(2) Is not eligible for shock parole.

(3) Is not eligible for release on furlough for employment

[PAGE MISSING IN ORIGINAL]

pursuant to rule 5120-2-04 of the Administrative Code.

(b) The twenty years are diminished by time off for good behavior pursuant to rule 5120-2-05 of the Administrative Code.

(c) The twenty years may be reduced by credit earned pursuant to rules 5120-2-06, 5120-2-07, and 5120-2-08 of the Administrative Code.

(2) Is not eligible for shock parole.

(3) Is not eligible for release on furlough for employment or education pursuant to rule 5120:1-1-23 of the Administrative Code.

(4) Is not eligible for release on furlough for trustworthy prisoners pursuant to rule 5120-9-35 of the Administrative Code except for the purpose of visiting a dying relative or attending the funeral of a relative.

(F) A prisoner serving a sentence of imprisonment for life for an offense of first degree murder or aggravated murder committed prior to October 19, 1981.

(1) Becomes eligible for parole consideration after serving fifteen full years:

(a) The fifteen years are reduced by jail-time credit pursuant to rule 5120-2-04 of the Administrative Code.

(b) The fifteen years are not diminished by the time off for good behavior pursuant to rule 5120-2-05 of the Administrative Code.

(c) The fifteen years may not be reduced by days of credit earned pursuant to rules 5120-2-06, 5120-2-07, and 5120-2-08 of the Administrative Code.

(2) Is not eligible for shock parole.

(3) Is eligible for release on furlough for employment or education pursuant to rule 5120:1-1-23 of the Administrative Code.

(4) Is eligible for release on furlough for trustworthy prisoners (home furlough) pursuant to rule 5120-9-35 of the Administrative Code.

[PAGE MISSING IN ORIGINAL]

committed on or after July 1, 1983 or if serving a term of actual incarceration imposed pursuant to section 2907.10 of the Revised Code for an offense committed before July 1, 1983.

(3) Is not eligible for release on furlough for employment or education pursuant to rule 5120:1-1-23 of the Administrative Code if the offense was committed on or after October 19, 1981.

(4) Is not eligible for release on furlough for trustworthy prisoners (home furlough) pursuant to rule 5120-9-35 of the Administrative Code except for the purpose of visiting a dying relative or to attend the funeral of a relative if the offense was committed on or after October 19, 1981.

(I) A prisoner serving a sentence of imprisonment for life for an offense other than first degree murder or aggravated murder committed prior to October 19, 1981.

(1) Becomes eligible for parole consideration after serving ten full years:

(a) The ten full years are reduced by jail-time credit pursuant to rule 5120-2-04 of the Administrative Code.

(b) The ten full years is not diminished by time off for good behavior pursuant to rule 5120-2-05 of the Administrative Code.

(c) The ten full years may not be reduced by days of credit earned pursuant to rules 5120-2-06, 5120-2-07, and 5120-2-08 of the Administrative Code.

(2) Is eligible for shock parole.

(3) Is eligible for release on furlough for employment or education pursuant to rule 5120:1-1-23 of the Administrative Code.

(4) Is eligible for release on furlough for trustworthy prisoners (home furlough) pursuant to rule 5120-9-35 of the Administrative Code.

(J) A prisoner serving a sentence of imprisonment for life consecutive to any other term or terms of imprisonment becomes eligible for parole consideration as follows:

(1) Where the life sentence is imposed for aggravated murder, with one of the specifications enumerated in section 2929.04 of the Revised Code, committed on or

[PAGE MISSING IN ORIGINAL]

Effective Date 5/01/88
Replaces None
Promulgated under 111.15
Statutory Authority 5120.01
Expires Indefinite
Prior Effective Date 11/30/87
(Emergency), 2/26/88 Emergency)

CERTIFIED:
SIGNATURE: /s/Richard P. Seiter
DATE: April 13, 1988

Exhibit G

DIVISION OF PAROLE AND COMMUNITY SERVICES
REVIEW SCREENING RECOMMENDATION SHEET

TO: Chair, Parole Board
FROM: David W. Dogie
RE: (Name): William Dotson Inst. NCCI 163-897
DATE: 3-10-2000

On the above date, a REVIEW SCREENING was held concerning the above inmate. Notice of that screening was sent to the inmate at least seven (7) days prior on 2-22-2000 (Month/Day/Year).

Based on this screening of the inmate's Central Office file, Institution files and Unit file and any written information that was properly submitted by the inmate, the following is the recommendation.

A. (√) Category 13 Section 201a Risk 8 Range 390-life Time Served: 230 at cont. date: 293

B. ( ) Recommend a Parole Board Hearing on or about:
1. Reasons:

C. ( ) Reschedule for (Month/Year) obtain additional information, to wit
or for the following reason:

D. (√) Denied for the following reason(s): Inmate's continuance date remains short of the Guideline Range.
1. ( ) Serious Rule Infractions
2. ( ) Confined in LC or AC
3. (√) Guideline Range

E. (√) Next hearing date will be: 6/2005 (Month/Year)

/s/David Dogie
Hearing Officer

In the event of an unfavorable recommendation, submit your written objection to the Parole Board within three (3) days of receipt of the notice. (See reverse side of this form)

[Reproduced as in original including spelling, etc.]

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

WILLIAM DWIGHT DOTSON,	:	CASE NO. 3:00CV7303
PLAINTIFF,	:	Katz
-VS-	:	1983 CIVIL COMPLAINT
REGINALD WILKERSON, DIRECTOR OF REHAB. &	:	FRCP-15
CORRECTION; JOHN KINKELA, CHIEF OF OHIO	:	MOTION TO AMEND PAGE (6) DUE TO
ADULT PAROLE AUTHORITY; AND	:	COPYING MISTAKE
MARGARETTE T. GHEE, CHAIRPERSON OF THE OHIO	:	
PAROLE BOARD.	:	
DEFENDANTS.	:	

5120-2-10

After October 19, 1981, the prisoner shall be eligible for parole after serving the sum, without diminution, of any three-year terms of actual incarceration imposed pursuant to section 2929.71 of the Revised Code for using a firearm in the commission of an offense, plus the twenty or thirty full years, without diminution, as designated by the court for parole eligibility, plus the time required for parole eligibility for any other crimes. There shall be no limit to the length of such aggregated sentence.

(2) Where the life sentence is imposed for aggravated murder without one or more specifications enumerated in Section 2929.04 of the Revised Code, committed on or after October 19, 1981, the prisoner shhall be eligible for parole after serving the sum, without diminution, of any three-year terms of actual incarceration imposed pursuant to section 2929.71 of the Revised Code for using a firearm in the commission of an offense, plus the sum of twenty years for each such consecutive life sentence and the sum of all other consecutive minimum sentences, each diminished, as provided in Rules 5120-2-05, 5120-2-06, 5120-2-07, and 5120-2-08 of the Administrative Code. There shall be no limit to the length of such aggregated minimum term.

(3) Where the life sentence is imposed for first degree murder or aggravated murder committed prior to October 19, 1981, and does not include a life sentence imposed for aggravated murder committed on or after October 19, 1981, the prisoner shall be eligible for parole after serving the sum, without diminution, of any terms of actual incarceration imposed pursuant to Section 2929.71 of the Revised Code for using a firearm in the commission of an offense, plus fifteen full years, without diminution, plus the required time for parole eligibility for any other crimes. However, this aggregate shall not exceed the sum of all terms of actual incarceration time plus twenty full years.

CERTIFICATE OF SERVICE

This document is to certify that a true and exact copy of the foregoing motion with attached FRCP-15 was mailed to Office of the Clerk, United States District Court by regular U.S. Mail this 19 day of July, 2000, via the mail drop-box within the confines of the Allen Correctional Institution, in accordance with *State v. Williamson*, 10 Ohio St.2d 195 as referenced through O.R.C. Sections 2505.04, 2305.17, and all applicable Ohio Rules of Civil Procedures and Ohio Rules of Appellate Procedure.

/s/William Dotson

I declare under penalty of perjury that the foregoing is true and correct to the best of my belief and knowledge.

/s/William Dotson

7-20-2000
Date Executed

[Reproduced as in original including spelling, etc.]

The United States District Court
Northern District of Ohio

Rogerico Johnson & ~~Derrick Matthews~~ Pro se Plaintiffs,	Civil Case #4:00CV1075 Judge Economus Mag. Judge Limbert
vs.	
Margaret T. Ghee Defendant	Civil Complaint 42 U.S.C. 1983

This is a civil rights action filed by Rogerico J. Johnson and Derrick Matthews, Pro se, state prisoners, for declaratory and injunctive relief under 42 U.S.C. 1983, alleging denial of a full and fair parole review in violation of the due process clause of the Fourteenth Amendment to the U.S. Constitution. *Williams v. Ward*, 556 f2d.1143; 434 U.S. 944 (1977)

Jurisdiction

This court supplemental jurisdiction over plaintiff's claims of violation of federal constitutional rights under 28 U.S.C. 1367.

I. *Previous Lawsuits*: Plaintiffs have not been involved in any other lawsuit, except this present one.

II. *Place of Present Confinement*: Ohio State Penitentiary

A. There is no prisoner grievance procedure available in Ohio to challenge the Ohio Adult Parole Authorities.

B. There is no appeal system available in Ohio to challenge the Ohio Adult Parole Authority.

C. However, plaintiffs have written several letters complaining to the defendant about said violations, but to no avail. Defendant neglects to even acknowledge such complaints.

III. *Parties*:

A: Plaintiffs:

1) Rogerico J. Johnson
Ohio State Penitentiary
878 Coitsville-Hubbard Rd.
Youngstown, Ohio 44504

2) Derrick Matthews
Ohio State Penitentiary
878 Coitsville-Hubbard
Youngstown, Ohio 44504

B: Defendants: Margaret T. Ghee
Ohio Adult Parole Authority
1050 Freeway Dr., North
Columbus, Ohio 43229

V. *Statement of Claims*:

1. The assembly of the Parole Boards, reviewing panel was/is constructed contrary to the DAR 5120:1-1-11(C)
2. The most basic due process right is the right to be heard and the right to hear; to be informed of the evidence against you, so that you can respond to it.
3. The right to parole review cannot be arbitrarily vitiated without depriving prisoners of a liberty interest in violation of due process.
4. Ohio Parole Authorities neglects to follow the explicit criteria set forth in its own Parole Board Guidelines.
5. Some of Ohio Parole procedures are direct violations of the Ex Post Facto laws.

VI. *Memorandum of Facts*

- *Support case*

The Due Process Clause of the Fourteenth Amendment, which imposes the same restraints on the state that the corresponding clause of the Fifth Amendment imposes on the national government, prohibits any state from depriving any person of life, liberty or property, without due process of law. No right to due process arises, under this language, except where a state undertakes to deprive a person of one or more of the three interests specified: life, liberty or property. It is "liberty" of course, which we're concerned in the case at bar.

Although incarceration itself represents a quintessential deprivation of liberty, lawful incarceration does not extinguish all of prisoner's constitutional protected liberty. Prisoners retain what the Supreme Court has characterized as "a residuum of liberty."

It is well established that the prisoners in the state of Ohio do not have a right to a parole.
However, the State of Ohio has created a right to parole review. Ohio Rev. Code 2967.13 & .19; Ohio Administrative Rules 5120:1-1-03, 1-1-07, 1-1-10 & 1-1-11. The right to parole review cannot be arbitrarily vitiated without depriving prisoners of a liberty interest in violation of due process—these claims are cognizable under 1983.

1. The assembly of the Parole Board Reviewing Panel was/is constructed contrary to the DAR 5120:1-1-11(C).

Plaintiffs interpret and understand DAR 5120:1-1-11(C) to mean that it must be at least (#2) two people present at each and every Parole Board hearing; (1 Parole Board member and 1 Parole Board hearing officer). Representing the Parole Board before a

decision can be impartial and a hearing can be full and rendered fair.
Plaitiff Derrick Matthews went to his Parole Review hearing on August 7th 1998, and he was only confronted by one Parole Board representative (Ms. Jones) which is explicitly contrary to the Admin. Rule 5120:1-1-11(C). Any decision resulting from this hearing—when the meeting (hearing) is contrary to the rule, could never be an impartial decision nor can this hearing be considered heard by a full panel (#2 representatives), when only one representative heard Plaintiff's case. Also, Plaintiff Matthews wasn't made aware of the Parole Boards decision until June of 1999, but the fraudulent review hearing was conducted ten months earlier—this procedure is also contrary to the rules, so ultimately any decisions resulting from these illegal procedures can never be deemed fair!!!
Plaintiff Rogerico J. Johnson went to his parole review hearing on April 9th 1999 and he was only confronted by one Parole Board representative (Ms. Jones). There are several other prisoners at O.S.P. who have only witnessed one Parole Board representative at their hearing. We have affidavits from other prisoners to substantiate this fact.

Violating the Admin. Rule 5120:1-1-11(C), is common practice by Ohio Parole Authorities at O.S.P. One Parole Board representative cannot determine the fate of a prisoner by themselves without increasing the risk of errors. The rules that govern the Parole Board exist for a reason. If these reasons are ignored, then they may not as well exist.

These rules exist to protect our rights; these review hearings are suppose to be structured to assure that the findings at a review hearing be based on verified facts and that the exercise of discretion be informed by an accurate knowledge of the truth. Plaintiffs and other

prisoners who have only been seen by one Parole Board representative received the maximum amount of time one can receive at only one hearing—(#10 yrs) ten year. And if each prisoner's record is thoroughly investigated and the Parole Board Guidelines are applied appropriately, Ohio Parole Authorities can't justify giving Plaintiffs and other prisoners ten years. *Our parole papers have been fraudulently doctored by the one Parole Board representative we each saw.*

2. *The most basic due process right is the right to be heard, prisoners also have the right to hear, i.e. to be informed of the evidence against them, so they can respond to it.*

Plaintiffs were not allowed to participate, interact or stress their opinions at their own parole review hearings. The Parole Board representative looked through "our" files out of our presence, but in our distance of eye sight. We were not asked any questions, nor were we given an opportunity to ask any questions. Majority of the prisoners who were given the maximum amount of flop time, receive their parole board decisions via U.S. mail.

Denying plaintiffs an opportunity to speak in on their own behalf eliminates any opportunity for "us" to correct any possible or obvious errors. Plaintiffs can demonstrate that this form of procedure do and did prejudice the outcome of these review hearings.

Both plaintiffs who received their Parole Board decisions in the mail immediately noticed several mistakes and errors including offenses they had not been convicted of, offenses that did not even exist in their criminal or prison conduct files and a blatant disregard to follow the P.B. guidelines in calculating time for each offense or behavior(s). This

indiscretion or mishap could of easily been eliminated if the plaintiffs (and all prisoners) is/would have been adequately informed of the basis for denying their parole. At that point they could have corrected apparent factual errors and challenged the Parole Authority's decision(s).

If prisoners have a constitutionally based liberty interest, that does not mean that prison officials can never take it away. It means that they cannot do so arbitrarily and that they must provide fair procedures that will prevent arbtrariness!

Due process can only be satisfied when the candidate for parole is allowed to participate meaningfully in the proceeding by presenting information relevant under the criteria used by the P.B. authorities.

DAC 5120:1-1-07 states in part: whenever feasible, persons directly affected by the decision making process shall be given notice and an opportunity to be heard prior to the decision becoming final. Fairness and equity shall be the standards by which prisoners, releases, staff and the public are treated. DAC 5120:1-1-07(G).

If plaintiffs' Parole Board Decision Papers were submitted as evidence to support this claim, the court will notice that there does not exist a space or an area on these papers to accommodate the prisoners' remarks, opinions or rebuttals—there isn't even a place designated for the prisoner to subscribe his signature to substantiate that he was even persent at the decision-making review hearing. The reason being is that here at O.S.P. the prisoner is silenced at their review hearings and ignored if they say something regardless of being told that their comments isn't necessary, because their institutional file will do the speaking for them!

So, if is as if the prisoner is not at his own parole review hearing, because he's not allowed to defend himself. This is an explicit violation of the Due Process Clause!

3. *The right to parole review cannot be arbitrarily vitiated without depriving prisoners of a liberty interest in violation of due process.*

- In the Monroe vs. Thigpen case, 937 F2d 1437 (1991), a parole may not be denied based on false information even if not liberty interest exists.
- And in the Greenholtz case, 442 U.S. 13 (1979), that inaccurate information in parole files increases the risk of erroneous parole decisions.

The Parole Authorities use of the OPB Guideline system to grade me, Plaintiff Johnson, for offenses (crimes) prison misconduct—that I've never been found guilty of or even charged for. I was graded for two aggravated arson offenses, was given 108 months for each agg. arson offense, together they total 216 months of flop time, which equals an exact total of #18 years. The ironic part of this whole incident is there's nothing in my file to substantiate that "I" was ever charged, accused, let alone convicted of an aggravated arson in my entire life. However, in 1992 on two different occasions, I received two institutional conduct reports for offenses of arson. There are distinct differences between arson and aggravated arson—the nature of the offenses and the penalty for the offenses differ.

But the obvious doesn't stop there. I was only convicted of one of the arson offenses by the institutional Rule Infraction Board. The other arson offense was dismissed (actually the ticket was torn up). There's no disposition for the 4-8-92 arson,

because it was dismissed—but the ticket and disposition for the 4-15-92 arson substantiate that I was indeed convicted of an arson—at the top of the ticket/conduct report it charges me with arson 2909-03. It is not an honest mistake for the plaintiff to be graded and given time for offenses he's never even been charged or accused of.

According to the OPB Guideline Diversionary Dispositions:

(a) Criminal conduct resulting in diversion from the Judicial Process without a finding of guilt *is not to be counted* in scoring this item. So technically, the parole board's own guideline state that if a prisoner isn't found guilty of a particular charge, then don't grade him on it.

The maximum penalty for an arson charge that I could have received if the guideline applied appropriately is #20 months—this is quite far and different from what I received for aggravated arson--#108 months. It is evident that this error or miscarriage of justice did prejudice the outcome of the proceedings. There are more errors involving both plaintiffs, of this sort, but it would take more paper and space and I'm trying to be as brief as possible.

The Parole Board Guidelines are rules or instructions designed to direct the Parole Authorities, so that they don't abuse their discretion. Guidelines are principles set up by an authority to help govern a body in which manner its business shall be conducted.

Basically, the Ohio Parole Authorities have created a substantive criteria—by creating the P.B. Guidelines, and due process requires that the decisions actually be made based on those criteria.

Plaintiff received a multitude of flop time based on false information. The Parole Authorities retain extensive discretion in determining the appropriateness of parole for each particular prisoner, nevertheless, a parole board is not at liberty to deny artitrarily and capriciously parole authorized by the state statute. While parole statutes conferred no liberty interest in parole, it did not grant Parole Board discretion to rely upon false information in determining whether to grant parole.

Both Plaintiffs argue that although "we" have no liberty interest in parole, we have a due process right to be fairly considered for parole. Plaintiffs contend that the defendants reliance on false information in order to deny them parole violates due process.

4. *Ohio Parole Authorities neglect to follow the explicit criteria set forth in its own Parole Board Guidelines.*

- Guidelines page #62—multiple separate offenses states: "this chart is to be used in the following manner:

First, determine the points for each of the multiple separate offenses from this chart. *Second*, add these points together to obtain a total score. *Third*, consult the chart again to determine whether the total score places the offense behavior in a higher category."

Now please follow me: Plaintiff Matthews has four separate offenses--#3 assault charges and #1 aggravated robbery charge.

Assault offenses are category two = 1/3 points
Aggravated robbery offenses are category nine = 216 points

Assaults:	Aggravated Robbery:	total:	would remain
1/3+1/3+1/3=1 pt	+216 pts	=217	=category nine

The next category is a category ten which equals 432 points. Being that Plaintiff Matthew points did not sufficiently change, the rules/guidelines say that when the points don't suficiently change, the category remains the same.

Well, instead of adding the points like the guideline instructs the defendant to do, the defendant adds the categories together: category two + category nine to equal a category eleven.

Being that the category helps determine the amount of flop time a prisoner receives, disregarding the Guideline instructions and adding the categories together to create a greater category, in turn, creating a greater penalty (flop time). This is a blatant disregard for the rules and procedure based on fraud, to enhance the Plaintiffs flop time—this is in itself a criminal act; a Parole Board may not engage in flagrant or unauthorized action and consider it legal or fair

5) *Parole statutes that change the standards for granting parole or dictate longer periods of incarceration, if applied "retroactively" to offenses committed before the change in law, violates the ex post facto law.*

(A) The history of the Ohio Adult Parole Authority is well documented and should be used to help differentiate the grave difference between flop time and granting parole prior to the passing of Senate Bill #2, compared to the outrageous amount of time the Parole Authorities now extend.

Both Plaintiffs were convicted on aggravated robbery charges prior to the existing "truth-in-sentencing" law. And prior to the new law coming into effect,

prisoners with the same exact offenses (crimes) on their records, similar institutional records and exact same sentences were only receiving a maximum of five (5yrs.) years flop time.

This "truth-in-sentencing" law is being applied retroactively to offenses that were committed almost nine years before Senate Bill #2 was even thought of, and this procedure violates the ex post facto clause.

(B) Both plaintiffs have been convicted of simple assault offenses during their prison incarceration or while under the custody of the Department of Rehabilitation and Corrections. These offenses were committed prior to the enactment of Senate Bill #2 (truth-in-sentencing law); however, when both plaintiffs went before their parole review hearings, the Parole Authority gave each plaintiff more time for each individual offense, than the offense carried during the time the offenses were committed.

The old and the new statutes only dictate a maximum of #12 months for simple assault offenses—under the old law as well as the under the new law. The Parole Authorities gave plaintiffs #14 to #28 months for each assault offense on their records—which in itself violates the ex post facto clause.

The Supreme Court teaches that discretionary aspects of a law do not preclude an ex post facto violation. The Supreme Court had repeatedly stated that a criminal defendant need not show that she or he certainly would have received a less onerous punishment under a prior law to establish constitutional violation; a law need not impair a

"vested right" to violate the ex post facto prihibition. *998 F.2d 721 Flemming v. Oregon Bd. of Paroles (1993).*

V. Conclusion

Plaintiffs have reasonably demonstrated that these claims are recognizable in federal court under civil action. Plaintiffs are challenging the method of parole decision-making, rather than its outcome. Plaintiffs entire claim is about "due process" being denied proper parole procedures.

VII. Relief

Plaintiffs request declaratory and injunctive relief to vindicate their alleged due process rights.

I declare under penalty of perjury that the foregoing is true and correct.

10-10-99 /s/Rogerico Johnson
signature of plaintiff

Nov. 4th 1999 /s/Derrick Matthews
signature of plaintiff

[Reproduced as in original including spelling, etc.]

The United States District Court
Northern District of Ohio

Rogerico J. Johnson and ~~Derriek Matthews~~ Pro se Plaintiffs	4:00 CV 1075 Judge Economus
vs.	Motion for Class Certification
Margaret T. Ghee Defendant	

Plaintiffs request Class Certification under Rule 23, Fed. R. Civ. P. and Rule 23(b)(2).

1. The class is so numerous that joinder of all class members is necessary.
2. Most class members are illiterate or poorly educated and have absolutely no knowledge in how to litigate a civil action.
3. There are questions of law and facts common to the class members and plaintiffs.

The violation of due process in Plaintiffs claim is a violation to all prisoners in the State of Ohio—because it is the procedure that of the Adult Parole Authorities that are improper and that which we challenge.

Further Affidavit saying naught

10-6-99
date

/s/Rogerico Johnson
signature

Sworn to and subscribed before me this 6 day of Oct. 1999

/s/Tracy England
Notary Public
Commission Expires
9-19-2003

United States District Court
Northern District of Ohio

Affidavit from Prisoners
In the Northern District
Of Ohio

Affidavit of facts:

The State of Ohio has created a right to parole review. Ohio Revised Code 2967.13 & .19; Ohio Administrative Rules 5120:1-1-03, 1-1-07, 1-1-10, 1-1-11.

The right to parole review cannot be arbitrarily vitiated without depriving prisoners of a liberty interest in violation of due process

Also, within this right to a parole review, the most basic due process right is the right to hear and be heard.

Prisoners have a right to hear, i.e., to be informed of the evidence against them so they can respond to it. Prison officials and parole authorities are obligated to take the necessary steps so prisoners can hear and be heard.

Jackson v. Cain 864 f.2d 1235 (5th Cir. 1989)

Ohio Administrative Rule 5120:1-1-11(C):
The hearing may be conducted by the Parole Board or a quorum thereof, for the purpose of making a decision for or against release or be conducted for the purpose of making a recommendation for or against release to the Parole Board by a panel consisting of one or more members of the Parole Board and one or more Parole Board hearing officers as designated by the Chairman of the Parole Board. I prisoner Johnson, Rogerico, interpret and understand the above caption of DAR 5120:1-1-11(C) to mean that it must be at least (#2) two people present at each and every Parole Board hearing; (1 Parole Board member and 1 Parole Board hearing

officer) representing the Parole Board before a decision can be impartial and a hearing can be full and rendered fair.

I prisoner Johnson, Rogerico, became eligible and was seen by the Parole Board on 4-9-99 and the decision rendered resulted in me receiving #10 years.

1. This particular hearing was conducted by only one Parole Board representative.
2. I was not allowed to engage, part-take or extend any form of input in this hearing, except receive the written decision—that was decided by this same one Parole Board representative, who denied me an opportunity to speak at his hearing in my own behalf.

Both of these indiscretions are direct examples that I did not receive a full and fair hearing; as a result, the Adult Parole Authority violated my due process rights that are guaranteed under the 14th Amendments to the U.S. Constitution.

I swear the above statements are true and correct.
Further, Affiant sayeth naught.

/s/Rogerico Johnson
Signature
Ohio State Penitentiary
878 Coitsville-Hubbard Rd.
Youngstown, Ohio 44505

Sworn to and subscribed before me
This 6 day of Oct. 1999
/s/Tracy England
Notary Public
Commission Expires 9-19-2003

United States District Court
Northern District of Ohio

Affidavit from Prisoners
In the Northern District
Of Ohio

Affidavit of facts:

The State of Ohio has created a right to parole review. Ohio Revised Code 2967.13 & .19; Ohio Administrative Rules 5120:1-1-03, 1-1-07, 1-1-10, 1-1-11.

The right to parole review cannot be arbitrarily vitiated without depriving prisoners of a liberty interest in violation of due process

Also, within this right to a parole review, the most basic due process right is the right to hear and be heard.

Prisoners have a right to hear, i.e., to be informed of the evidence against them so they can respond to it. Prison officials and parole authorities are obligated to take the necessary steps so prisoners can hear and be heard.

Jackson v. Cain 864 f.2d 1235 (5th Cir. 1989)

Ohio Administrative Rule 5120:1-1-11(C):
The hearing may be conducted by the Parole Board or a quorum thereof, for the purpose of making a decision for or against release or be conducted for the purpose of making a recommendation for or against release to the Parole Board by a panel consisting of one or more members of the Parole Board and one or more Parole Board hearing officers as designated by the Chairman of the Parole Board. I prisoner Andre Smith, 189595, interpret and understand the above caption of DAR 5120:1-1-11(C) to mean that it must be at least (#2) two people present at each and every Parole Board hearing; (1 Parole Board member and 1 Parole Board hearing

officer) representing the Parole Board before a decision can be impartial and a hearing can be full and rendered fair.

I prisoner Andre Smith 189595, became eligible and was seen by the Parole Board on 3-18-99 and the decision rendered resulted in me receiving 10 years.

1. This particular hearing was conducted by only one Parole Board representative.
2. I was not allowed to engage, part-take or extend any form of input in this hearing, except receive the written decision—that was decided by this same one Parole Board representative, who denied me an opportunity to speak at his hearing in my own behalf.

Both of these indiscretions are direct examples that I did not receive a full and fair hearing; as a result, the Adult Parole Authority violated my due process rights that are guaranteed under the 14th Amendments to the U.S. Constitution.

I swear the above statements are true and correct.
Further, Affiant sayeth naught.

/s/Andre Smith
Signature
Ohio State Penitentiary
878 Coitsville-Hubbard Rd.
Youngstown, Ohio 44505

Sworn to and subscribed before me
This 6 day of Oct. 1999
/s/Tracy England
Notary Public
Commission Expires 9-19-2003

UNITED STATES DISTRICT COURT

Affidavit From Prisoners in the Northen District of Ohio

Affidavit of Facts:

The State of Ohio had created a right to Parole Review. Ohio Revised Code §2967.13, & 19; Ohio Administrative Rules 5120:1-1-03, 1-1-07, 1-1-10, 1-1-11. The right to Parole Review cannot be arbitrarily vitiated without depriving prisoners of a liberty interest in violation of Due process.

Also, within this right to a Parole Review the most basic due process right is the right to hear & be heard.
Prisoners have a right to hear.i.e, to be informed of the evidence against them so they can respond to it. Prison Officials & Parole Authorities are obligated to take the necessary steps so prisoners can hear and be heard.

Jackson v. Cain. 864 F.2d 1235 (5th Cir. 1989)

Ohio Administrative Rule 5120:1-1-11(C):

The hearing may be conducted by the Parole Board or a quorum thereof, for the purpose of making a decision for or against release or be conducted for the purpose of making a recommendation for or against release to the Parole Board by a panel consisting of one or more members of the Parole Board and one or more Parole Board hearing officers as designated by the Chairman of the Parole Board.

I Prisoner Thomas Blackmon, interpret & understand the above caption of OAR 5120:1-1-11(C) to mean that it must be at least (#2) two people present at each & every Parole Board hearing, (1.Parole Board emmber &1.Parole

Board hearing Officer) representing the Parole Board before a decision can be impartial & a hearing can be full and rendered fair.

I Prisoner Thomas Blackmon, became eligible & was seen by the Parole Board on Sept. 1999, and the decision rendered resulted in me receiving 10 years.

1. This particular hearing was conducted by only one Parole Board representative.

2. I was not allowed to engage, partake or extend any form of in-put in this hearing, except receive the written decision—that was decided by this same one Parole Board representative, who denied me an opportunity to speak at this hearing on my own behalf.

Both of these indiscretions are direct examples that I did not receive a full & fair hearing; As a result, the Adult Parole Authorities violated my due process rights that are guaranteed under the 14th. Amendments to the U.S. Constitution.

I swear the above statements are true & correct.
Further, Affiant sayeth naught.

/s/Thomas Blackmon
Signature
Ohio State Penitentiary
878 Coitsville-Hubbard Rd.
Youngstown, Ohio 44505

Sworn to and subscribed before me this 3rd day of December. 1999.

/s/Linda Ball
Notary Public
Linda R. Ball, Norary Public
State of Ohio
My Commission Expires
February 13, 2003

United States District Court
Northern District of Ohio

Affidavit from Prisoners
In the Northern District
Of Ohio

Affidavit of facts:

The State of Ohio has created a right to parole review. Ohio Revised Code 2967.13 & .19; Ohio Administrative Rules 5120:1-1-03, 1-1-07, 1-1-10, 1-1-11.

The right to parole review cannot be arbitrarily vitiated without depriving prisoners of a liberty interest in violation of due process

Also, within this right to a parole review, the most basic due process right is the right to hear and be heard.

Prisoners have a right to hear, i.e., to be informed of the evidence against them so they can respond to it. Prison officials and parole authorities are obligated to take the necessary steps so prisoners can hear and be heard.

Jackson v. Cain 864 f.2d 1235 (5th Cir. 1989)

Ohio Administrative Rule 5120:1-1-11(C):
The hearing may be conducted by the Parole Board or a quorum thereof, for the purpose of making a decision for or against release or be conducted for the purpose of making a recommendation for or against release to the Parole Board by a panel consisting of one or more members of the Parole Board and one or more Parole Board hearing officers as designated by the Chairman of the Parole Board. I prisoner Derrick Mathews R142-546, interpret and understand the above caption of DAR 5120:1-1-11(C) to mean that it must be at least (#2) two people present at each and every Parole

Board hearing; (1 Parole Board member and 1 Parole Board hearing officer) representing the Parole Board before a decision can be impartial and a hearing can be full and rendered fair.

I prisoner Derrick Mathews R142-546, became eligible and was seen by the Parole Board on 8-7-98 and the decision rendered resulted in me receiving 10 years.

1. This particular hearing was conducted by only one Parole Board representative.
2. I was not allowed to engage, part-take or extend any form of input in this hearing, except receive the written decision—that was decided by this same one Parole Board representative, who denied me an opportunity to speak at his hearing in my own behalf.

Both of these indiscretions are direct examples that I did not receive a full and fair hearing; as a result, the Adult Parole Authority violated my due process rights that are guaranteed under the 14th Amendments to the U.S. Constitution.

I swear the above statements are true and correct.
Further, Affiant sayeth naught.

/s/Derrick Mathews R142-546
Signature
Ohio State Penitentiary
878 Coitsville-Hubbard Rd.
Youngstown, Ohio 44505

Sworn to and subscribed before me
This 23rd day of December 1999
/s/Linda (Ball) Gabauer
Notary Public
Linda R. Ball, Notary Public
State of Ohio
My Commission Expires February 13, 2003

United States District Court
Northern District of Ohio

Affidavit from Prisoners
In the Northern District
Of Ohio

Affidavit of facts:

The State of Ohio has created a right to parole review. Ohio Revised Code 2967.13 & .19; Ohio Administrative Rules 5120:1-1-03, 1-1-07, 1-1-10, 1-1-11.

The right to parole review cannot be arbitrarily vitiated without depriving prisoners of a liberty interest in violation of due process

Also, within this right to a parole review, the most basic due process right is the right to hear and be heard.

Prisoners have a right to hear, i.e., to be informed of the evidence against them so they can respond to it. Prison officials and parole authorities are obligated to take the necessary steps so prisoners can hear and be heard.

Jackson v. Cain 864 f.2d 1235 (5th Cir. 1989)

Ohio Administrative Rule 5120:1-1-11(C):
The hearing may be conducted by the Parole Board or a quorum thereof, for the purpose of making a decision for or against release or be conducted for the purpose of making a recommendation for or against release to the Parole Board by a panel consisting of one or more members of the Parole Board and one or more Parole Board hearing officers as designated by the Chairman of the Parole Board. I prisoner Andre Choulet, interpret and understand the above caption of DAR 5120:1-1-11(C) to mean that it must be at least (#2) two people present at each and every Parole Board hearing;

(1 Parole Board member and 1 Parole Board hearing officer) representing the Parole Board before a decision can be impartial and a hearing can be full and rendered fair.

I prisoner Andre Choulet, became eligible and was seen by the Parole Board on 11/6/98 and the decision rendered resulted in me receiving 10 years, 7 months.

1. This particular hearing was conducted by only one Parole Board representative.
2. I was not allowed to engage, part-take or extend any form of input in this hearing, except receive the written decision—that was decided by this same one Parole Board representative, who denied me an opportunity to speak at his hearing in my own behalf.

Both of these indiscretions are direct examples that I did not receive a full and fair hearing; as a result, the Adult Parole Authority violated my due process rights that are guaranteed under the 14th Amendments to the U.S. Constitution.

I swear the above statements are true and correct.
Further, Affiant sayeth naught.

/s/Andre Choulet
Signature
Ohio State Penitentiary
878 Coitsville-Hubbard Rd.
Youngstown, Ohio 44505

Sworn to and subscribed before me
This 22nd day of November 1999
/s/Linda Ball
Notary Public
Linda R. Ball, Notary Public
State of Ohio
My Commission Expires February 13, 2003

United States District Court
Northern District of Ohio

Affidavit from Prisoners
In the Northern District
Of Ohio

Affidavit of facts:

The State of Ohio has created a right to parole review. Ohio Revised Code 2967.13 & .19; Ohio Administrative Rules 5120:1-1-03, 1-1-07, 1-1-10, 1-1-11.

The right to parole review cannot be arbitrarily vitiated without depriving prisoners of a liberty interest in violation of due process

Also, within this right to a parole review, the most basic due process right is the right to hear and be heard.

Prisoners have a right to hear, i.e., to be informed of the evidence against them so they can respond to it. Prison officials and parole authorities are obligated to take the necessary steps so prisoners can hear and be heard.

Jackson v. Cain 864 f.2d 1235 (5th Cir. 1989)

Ohio Administrative Rule 5120:1-1-11(C):
The hearing may be conducted by the Parole Board or a quorum thereof, for the purpose of making a decision for or against release or be conducted for the purpose of making a recommendation for or against release to the Parole Board by a panel consisting of one or more members of the Parole Board and one or more Parole Board hearing officers as designated by the Chairman of the Parole Board. I prisoner Burl Dillon, interpret and understand the above caption of DAR 5120:1-1-11(C) to mean that it must be at least (#2) two people present at each and every Parole Board hearing; (1 Parole Board member and 1 Parole Board hearing officer)

representing the Parole Board before a decision can be impartial and a hearing can be full and rendered fair.

I prisoner Burl Dillon, became eligible and was seen by the Parole Board on 11-22-99 and the decision rendered resulted in me receiving 10 years.

1. This particular hearing was conducted by only one Parole Board representative.
2. I was not allowed to engage, part-take or extend any form of input in this hearing, except receive the written decision—that was decided by this same one Parole Board representative, who denied me an opportunity to speak at his hearing in my own behalf.

Both of these indiscretions are direct examples that I did not receive a full and fair hearing; as a result, the Adult Parole Authority violated my due process rights that are guaranteed under the 14th Amendments to the U.S. Constitution.

I swear the above statements are true and correct.
Further, Affiant sayeth naught.

/s/Burl Dillon
Signature
Ohio State Penitentiary
878 Coitsville-Hubbard Rd.
Youngstown, Ohio 44505

Sworn to and subscribed before me
This 15 day of February
/s/April J. Peters
Notary Public
April J. Peters, Notary Public
in and for the State of Ohio
My Commission Expires March 1, 2004

United States District Court
Northern District of Ohio

Affidavit from Prisoners
In the Northern District
Of Ohio

Affidavit of facts:

The State of Ohio has created a right to parole review. Ohio Revised Code 2967.13 & .19; Ohio Administrative Rules 5120:1-1-03, 1-1-07, 1-1-10, 1-1-11.

The right to parole review cannot be arbitrarily vitiated without depriving prisoners of a liberty interest in violation of due process

Also, within this right to a parole review, the most basic due process right is the right to hear and be heard.

Prisoners have a right to hear, i.e., to be informed of the evidence against them so they can respond to it. Prison officials and parole authorities are obligated to take the necessary steps so prisoners can hear and be heard.

Jackson v. Cain 864 f.2d 1235 (5th Cir. 1989)

Ohio Administrative Rule 5120:1-1-11(C):
The hearing may be conducted by the Parole Board or a quorum thereof, for the purpose of making a decision for or against release or be conducted for the purpose of making a recommendation for or against release to the Parole Board by a panel consisting of one or more members of the Parole Board and one or more Parole Board hearing officers as designated by the Chairman of the Parole Board. I prisoner Griffin 296-336, interpret and understand the above caption of DAR 5120:1-1-11(C) to mean that it must be at least (#2) two people present at each and every Parole Board hearing; (1 Parole Board member and 1 Parole Board hearing officer)

representing the Parole Board before a decision can be impartial and a hearing can be full and rendered fair.

I prisoner Griffin #296-336, became eligible and was seen by the Parole Board on Feb. 14 2000 and the decision rendered resulted in me receiving 10 years.

1. This particular hearing was conducted by only one Parole Board representative.
2. I was not allowed to engage, part-take or extend any form of input in this hearing, except receive the written decision—that was decided by this same one Parole Board representative, who denied me an opportunity to speak at his hearing in my own behalf.

Both of these indiscretions are direct examples that I did not receive a full and fair hearing; as a result, the Adult Parole Authority violated my due process rights that are guaranteed under the 14th Amendments to the U.S. Constitution.

I swear the above statements are true and correct.
Further, Affiant sayeth naught.

/s/Mr. Delricious Griffin
Signature
Ohio State Penitentiary
878 Coitsville-Hubbard Rd.
Youngstown, Ohio 44505
#296-336

Sworn to and subscribed before me
This 22nd day of February
/s/Linda (Ball) Gabauer
Notary Public
Linda R. Ball, Notary Public
State of Ohio
My Commission Expires February 13, 2003

United States District Court
Northern District of Ohio

Affidavit from Prisoners
In the Northern District
Of Ohio

Affidavit of facts:

The State of Ohio has created a right to parole review. Ohio Revised Code 2967.13 & .19; Ohio Administrative Rules 5120:1-1-03, 1-1-07, 1-1-10, 1-1-11.

The right to parole review cannot be arbitrarily vitiated without depriving prisoners of a liberty interest in violation of due process

Also, within this right to a parole review, the most basic due process right is the right to hear and be heard.

Prisoners have a right to hear, i.e., to be informed of the evidence against them so they can respond to it. Prison officials and parole authorities are obligated to take the necessary steps so prisoners can hear and be heard.

Jackson v. Cain 864 f.2d 1235 (5th Cir. 1989)

Ohio Administrative Rule 5120:1-1-11(C):
The hearing may be conducted by the Parole Board or a quorum thereof, for the purpose of making a decision for or against release or be conducted for the purpose of making a recommendation for or against release to the Parole Board by a panel consisting of one or more members of the Parole Board and one or more Parole Board hearing officers as designated by the Chairman of the Parole Board. I prisoner George M. Griffith Jr. #A235-353, interpret and understand the above caption of DAR 5120:1-1-11(C) to mean that it must be at least (#2) two people present at each and every Parole Board hearing; (1 Parole Board member and 1 Parole

Board hearing officer) representing the Parole Board before a decision can be impartial and a hearing can be full and rendered fair.

I prisoner George M. Griffith Jr. #A235-353, became eligible and was seen by the Parole Board on 4-22-99 and the decision rendered resulted in me receiving 5 ½ years.

1. This particular hearing was conducted by only one Parole Board representative.
2. I was not allowed to engage, part-take or extend any form of input in this hearing, except receive the written decision—that was decided by this same one Parole Board representative, who denied me an opportunity to speak at his hearing in my own behalf.

Both of these indiscretions are direct examples that I did not receive a full and fair hearing; as a result, the Adult Parole Authority violated my due process rights that are guaranteed under the 14th Amendments to the U.S. Constitution.

I swear the above statements are true and correct.
Further, Affiant sayeth naught.

/s/George M. Griffith Jr.
#A235-353
Signature
Ohio State Penitentiary
878 Coitsville-Hubbard Rd.
Youngstown, Ohio 44505
#296-336

Sworn to and subscribed before me
This 19 day of Nov 1999
/s/Tracy England
Notary Public

United States District Court
Northern District of Ohio

Affidavit from Prisoners
In the Northern District
Of Ohio

Affidavit of facts:

The State of Ohio has created a right to parole review. Ohio Revised Code 2967.13 & .19; Ohio Administrative Rules 5120:1-1-03, 1-1-07, 1-1-10, 1-1-11.

The right to parole review cannot be arbitrarily vitiated without depriving prisoners of a liberty interest in violation of due process

Also, within this right to a parole review, the most basic due process right is the right to hear and be heard.

Prisoners have a right to hear, i.e., to be informed of the evidence against them so they can respond to it. Prison officials and parole authorities are obligated to take the necessary steps so prisoners can hear and be heard.

Jackson v. Cain 864 f.2d 1235 (5th Cir. 1989)

Ohio Administrative Rule 5120:1-1-11(C):
The hearing may be conducted by the Parole Board or a quorum thereof, for the purpose of making a decision for or against release or be conducted for the purpose of making a recommendation for or against release to the Parole Board by a panel consisting of one or more members of the Parole Board and one or more Parole Board hearing officers as designated by the Chairman of the Parole Board. I prisoner M. Rush #R118225, interpret and understand the above caption of DAR 5120:1-1-11(C) to mean that it must be at least (#2) two people present at each and every Parole Board hearing; (1 Parole Board member and 1 Parole Board hearing

officer) representing the Parole Board before a decision can be impartial and a hearing can be full and rendered fair.

I prisoner Rush #R118225, became eligible and was seen by the Parole Board on 08-25-99 and the decision rendered resulted in me receiving 3 years.

1. This particular hearing was conducted by only one Parole Board representative.
2. I was not allowed to engage, part-take or extend any form of input in this hearing, except receive the written decision—that was decided by this same one Parole Board representative, who denied me an opportunity to speak at his hearing in my own behalf.

Both of these indiscretions are direct examples that I did not receive a full and fair hearing; as a result, the Adult Parole Authority violated my due process rights that are guaranteed under the 14th Amendments to the U.S. Constitution.

I swear the above statements are true and correct.
Further, Affiant sayeth naught.

/s/Michael A. Rush
#R118225
Signature
Ohio State Penitentiary
878 Coitsville-Hubbard Rd.
Youngstown, Ohio 44505
#296-336

Sworn to and subscribed before me
This 19 day of Nov 1999
/s/Tracy England
Notary Public